

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Telecommunications Relay Services)	CC Docket No. 98-67
And Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	
Disabilities)	
)	
Petition for Limited Reconsideration of)	
Communication Services for the Deaf)	
_____)	

EX PARTE COMMENTS

As the Executive Director of the Texas Commission for the Deaf and Hard of Hearing (TCDHH), the state agency in Texas responsible for the professional assessment and certification of interpreters for the deaf, I, David W. Myers, submit these comments to demonstrate TCDHH's support for the petition to waive the requirement for video relay services (VRS) to handle legal proceedings.

TCDHH administers the Board for Evaluation of Interpreters (BEI) for the state of Texas. Texas alone has well over 1,400 certified interpreters that are certified by the BEI program. The BEI strives to support these interpreters by overseeing the interpreter certification process, providing and promoting continuing education for our interpreters, and working to assure the highest quality interpreter services for our state's consumers through adherence to state laws and ethical standards of behavior.

TCDHH would like to thank the FCC for its expansion of video relay services nationwide, as we were heavily involved in the early adoption of the technology when it was pioneered in Texas more than 9 years ago. We also would like to commend the Commission for its ability to recognize that VRS is not similar in all ways to text-based relay service. As the FCC is aware, the visual nature of communication brings unique requirements to video relay services, including those that directly impact the Video Interpreters or agents who process these calls.

Specifically, TCDHH considers matters related to legal interpreting to be a demonstrated specialized field. This has been supported through recent legislation in Texas which has required Court Certified sign language interpreters to handle all court related communications for individuals who are deaf. It is worth noting that interpreters who choose to disregard these state laws are subject to penalties under these laws.

There are ethical considerations for interpreters whenever they accept an assignment, or in this case, accept a video relay call. In fact, the ethical issues presented

in community interpreting situations are very similar to those confronting VRS interpreters. TCDHH believes that the existence of video relay services now requires that these issues be taken under consideration by the FCC. TCDHH and the BEI has adopted the following ethical standards of behavior which govern how interpreters in Texas conduct business, including how they interpret video relay calls:

Standards of Ethical Behavior

The following provisions shall govern the behavior of interpreters/transliterators certified by the Commission.

- Interpreter/Transliterators shall keep all assignment-related information strictly confidential.
- Interpreter/Transliterators shall render the message faithfully, always conveying the content and spirit of the speaker, using language most readily understood by the person(s) whom they serve.
- Interpreter/Transliterators shall not counsel, advise, or interject personal opinions.
- Interpreter/Transliterators shall accept assignments using discretion with regard to skills, setting and the consumer involved.
- Interpreter/Transliterators shall request compensation for services in a professional and judicious manner.
- Interpreter/Transliterators shall function in a manner appropriate to the situation.
- Interpreter/Transliterators shall strive to further knowledge and skills through participation in workshops, professional meetings, interaction with professional colleagues, and reading of current literature in the field.
- Interpreter/Transliterators shall strive to maintain high professional standards in compliance with the standards of ethical behavior.

The above standards apply in their entirety to interpreters acting as video relay interpreter agents who support VRS calls. Because VRS calls do not take place in a text environment, consideration of interpreting skills, the settings involved, and the needs of consumers on any given call is needed to ensure the effectiveness of the video relay service process.

TCDHH believes that sign language interpreters are placed in an ethical quandary if they are asked to process video relay service calls concerning legal proceedings in the same manner that communication assistants are asked to process text based calls, where the skills of visual sign language interpreting are not called into play. TCDHH wishes to firmly state its belief that a limited waiver of the FCC's minimum standards, to the extent that such standards require the provision of VRS for calls consisting of depositions and other legal proceedings, is an essential request and should be granted. Release of liability for the VRS provider or the VRS Interpreter agent will continue to place parties to these

calls needlessly in danger of having less than full, clear and effective communication, at best.

If these calls are not waived from being processed, consumers will be left with the very difficult task of having to exert their rights through complaints filed with judicial administrative review entities, as well as with state and national bar associations. This will force consumers to have to take action against the very court systems or attorneys who would inappropriately abuse the video relay service. This action would merely shift the burden to the consumers who will now be forced to seek legal protection for rights that have already been established, but which are being put into jeopardy, in part because of the availability of VRS. Educating these various branches of government throughout the entire nation is an insurmountable task for individual consumers. The more appropriate alternative is to have the FCC take action on this issue, since the issue has arisen as a direct result of the FCC's having authorized this new relay service.

TCDHH does not believe that granting this waiver would infringe on the rights of people who are deaf to telecommunications services. While relay services need to be all inclusive, it is critical to take into consideration the significant differences between text and video based TRS. Conversely, TCDHH believes that not granting this waiver would cause great harm to both the consumer and interpreter and unnecessarily place the rights of people who are deaf at risk in the legal process.

Texas is not unique in needing to address the issues raised in these comments; consumers nationwide face the same types of potential abuse. Consumers who are deaf have fought for years to gain greater communication access to the legal system and we applaud the FCC for trying to take steps to enhance that access. TCDHH is particularly aware of these issues, because of our long history in providing VRS through several pilot trials and because of our involvement in providing one of the first permanent services. We now call upon the FCC to take one step further, to revise its rules so that they do not infringe upon legal gains previously made for deaf consumers.

The Texas Commission for the Deaf and Hard of Hearing appreciates this opportunity to share what we believe is a national issue raised by Communication Service for the Deaf (CSD). We join Telecommunications for the Deaf, Inc. (TDI), the leading consumer organization representing the interests of deaf and hard of hearing to telecommunications access, as well as the Registry of Interpreters for the Deaf (RID), the single organization representing the interests of sign language interpreters across the country, in urging the Commission to preserve the hard-fought legal rights of deaf citizens by waiving the requirement to handle VRS calls involving legal proceedings.

Respectfully submitted,

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Texas is one state whose statute requires interpreters to meet certain qualifications when they interpret in legal settings. Specifically, Texas law provides:

§ 21.002. Interpreters for Deaf Persons

(a) In a civil case or in a deposition, a deaf person who is a party or witness is entitled to have the proceedings interpreted by a court-appointed interpreter. A deaf person who is a juror in any case is entitled to have the proceedings interpreted by a court-appointed interpreter.

(b) The proceedings must be interpreted in a language, including sign language, that the deaf person can understand.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 550, Sec. 2, eff. Sept. 1, 1987.

§ 21.003. Qualifications

The interpreter must hold a current Reverse Skills Certificate, Comprehensive Skills Certificate, Master's Comprehensive Skills Certificate, or Legal Skills Certificate issued by the National Registry of Interpreters for the Deaf or a current Level III, IV, or V Certificate issued by the Board for Evaluation of Interpreters.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 550, Sec. 2, eff. Sept. 1, 1987.

Criminal Code of Procedure

Art. 38.31 [733a] Interpreters for deaf persons.

(a) If the court is notified by a party that the defendant is deaf and will be present at an arraignment, hearing, examining trial, or trial, or that a witness is deaf and will be called at a hearing, examining trial, or trial, the court shall appoint a qualified interpreter to interpret the proceedings in any language that the deaf person can understand, including but not limited to sign language. On the court's motion . . .